

Jesse Cook; AZ Bar No. 027173
Zachary Price; AZ Bar No. 028464
COOK & PRICE, PLC
402 E. Southern Ave.
Tempe, AZ 85282
Tel: 480.407.4440
Fax: 480.696.5474
JCook@CookPriceLaw.com
ZPrice@CookPriceLaw.com

Attorneys for
Andrew Olason

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Andrew Olason,

Plaintiff,

v.

**Tolteca Enterprises, Inc. dba The
Phoenix Recovery Group, a Texas
Corporation,**

Defendant.

AMENDED COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the federal Fair Debt Collection Practices Act, 15 U.S.C. §1692, et seq. (hereinafter "FDCPA").

II. JURISDICTION

2. Plaintiff's claim for violations of the FDCPA arises under 15 U.S.C. §1692k(d), and therefore involves a "federal question" pursuant to 28 U.S.C. §1331.

III. PARTIES

1 3. Plaintiff, Andrew Olason (“Plaintiff”), is a natural person residing in Maricopa County,
2 Arizona.

3 4. Defendant, Tolteca Enterprises, Inc. dba Phoenix Recovery Group (“Defendant”) is a
4 Texas corporation engaged in the business of collecting debts by use of the mails and
5 telephone. Defendant regularly attempts to collect debts alleged due another.
6

7 **IV. FACTUAL ALLEGATIONS**

8 5. Defendant is a “debt collector” as defined by FDCPA, 15 U.S.C. §1692a(6).

9 6. Plaintiff is a “consumer” as defined by the FDCPA, 15 U.S.C. §1692a(3).

10 7. All activities of Defendant set out herein were undertaken in connection with the
11 collection of a “debt,” as defined by 15 U.S.C. §1692a(5).

12 8. Within the last year, Defendant did multiple actions in attempt to collect a debt from
13 Plaintiff. Defendant’s conduct violated the FDCPA in multiple ways including, but not
14 limited to the following:
15

- 16 • Communicating with people who were not the consumer and failing to identify
17 themselves, failing to state they are confirming or correcting location information
18 of the consumer (15 U.S.C. §1692b(1));
- 19 • Communicating with people who were not the consumer and stating the consumer
20 owes a debt (15 U.S.C. §1692b(2));
- 21 • Communicating with people who were not the consumer more than once when not
22 requested to do so (15 U.S.C. §1692b(3));
- 23 • Communicating with people who were not the consumer and telling them they
24 were in the debt collection business and that the communication relates to the
25 collection of a debt (15 U.S.C. §1692b(5));
26
27
28

- Communicating with third parties regarding the debt without prior consent of the consumer (15 U.S.C. §1692c(b));
 - Using false, deceptive, or misleading representation or means in connection with the debt through the false representation of the character, amount, or legal status of any debt (15 U.S.C. §1692e(2)(A));
 - Using false, deceptive, or misleading representation or means in connection with the debt through false representation or implication that the consumer committed any crime or other conduct to disgrace the consumer (15 U.S.C. §1692e(7));
 - Using false, deceptive, or misleading representation or means in connection with the debt through threatening to communicate credit information which is known or which should be known to be false (15 U.S.C. §1692e(8));
 - Using false, deceptive, or misleading representation or means in connection with the debt through distributing written communication and documents which creates the false impression it was authorized by the court (15 U.S.C. §1692e(9));
 - Using false, deceptive, or misleading representation or means in connection with the debt through using a false representation or deceptive means to collect a debt (15 U.S.C. §1692e(10)); and
 - Using false, deceptive, or misleading representation or means in connection with the debt through the false representation or implication that documents are legal process (15 U.S.C. §1692e(13)).
9. As a result of the aforementioned violations, Plaintiff suffered and continues to suffer injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

COOK & PRICE, PLC
402 E. Southern Ave., Tempe, AZ 85282
Tel: 480.407.4440 – Fax: 480.696.5474

1 10. Defendant intended to cause, by means of the actions detailed above, injuries to Plaintiff's
2 feelings, personal humiliation, embarrassment, mental anguish and severe emotional
3 distress

4 11. Defendant's actions detailed above, were undertaken with extraordinary disregard of, or
5 indifference to, known or highly probable risks to purported debtors.

6 12. To the extent Defendant's actions, detailed in paragraphs above, were carried out by an
7 employee of Defendant, that employee was acting within the scope of his or her
8 employment.

9
10 **COUNT I: VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT**

11 13. Plaintiff reincorporates by reference all of the preceding paragraphs.

12 14. The preceding paragraphs state a prima facie case for Plaintiff against Defendant for
13 violations of the FDCPA.

14
15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff respectfully prays the judgment be entered against the Defendant
17 for the following:

- 18 A. Declaratory judgment that Defendant's conduct violated the FDCPA;
19 B. Actual damages pursuant to 15 U.S.C. §1692k;
20 C. Statutory damages pursuant to 15 U.S.C. §1692k;
21 D. Costs, disbursements and reasonable attorney's fees for all successful claims, and any
22 unsuccessful claims arising out of the same transaction or occurrence as the successful
23 claims, pursuant to 15 U.S.C. §1692k; and,
24 E. For such other and further relief as may be just and proper.

25
26 PLAINTIFF FURTHER HEREBY REQUESTS A TRIAL BY JURY

27 DATED July 3, 2019.
28

COOK & PRICE, PLC
402 E. Southern Ave., Tempe, AZ 85282
Tel: 480.407.4440 – Fax: 480.696.5474

1
2 **COOK & PRICE, PLC**

3 By: /s/ Jesse D. Cook

4 402 E. Southern Ave.

5 Tempe, Arizona 85282

6 Attorneys for Defendant

7 *Andrew Olason*

8
9 **CERTIFICATE OF SERVICE**

10 I hereby certify that on July 3, 2019, I electronically transmitted the foregoing document
11 to the Clerk's Office using the CM/ECF System for filing and transmitted a Notice of
12 Electronic Filing to the following CM/ECF registrants.

13 *None*

14
15 By: /s/ Jesse D. Cook